

### **REMARKS**

Claims 21-46, 48-51, 53 and 54 are rejected. Claims 1-20, 47 and 52 are withdrawn from consideration. Claims 21, 29, 53, and 54 have been amended. Claims 21-46, 48-51, 53 and 54 are presently pending in the application. Favorable reconsideration of the application in view of the following remarks is respectfully requested.

The basis for the amendment of Claims 21, 53, and 54 is found on page 23, Table 4, PE-1 to PE-6 of the specification as originally filed, as well as page 3, line 16 (crosslinked). The basis for the amendment of claim 29 is found on page 10, lines 4-16 and page 23, Table 4 of the specification as originally filed. The present amendments are simply clarification relating to previously entered amendments.

### **Rejection of Claims 21-46, 48-51, 53 and 54 under 35 USC § 112:**

The Examiner has rejected Claims 21-46, 48-51, 53 and 54 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement, indicating that the claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims have been amended to recite that all of the polyester particles are cross-linked and the phrase "by weight" has been removed. The Applicants therefore request reconsideration.

The following Table B, presented in Applicants communication dated November 23, 2004, is included to again explain the basis for the present amendments. The data in this table were taken from the specification as originally filed and no new data or other information has been added in the preparation of this table.

**TABLE B**

PE dispersion	% Particle Size < 0.5 micron	% Mode 1 < 0.5 micron	% Mode 2 < 0.5 micron	Element	60° gloss
PE-1	100	100	0	1	36
PE-2	100	5.9	94.1	2	72

PE-3	88.2	88.2	0	3	20
PE-4	58.6	58.6	0	4	28
PE-5	100	45.1	54.9	5	70
PE-6	82.1	82.1	0	6	40
PE-7	0	0	0	Control C-1	3
PE-8	0	0	0	Control C-2	5

Table B indicates that at least a 4 fold increase in 60° gloss is achieved when more than 58% of the particles have a particle diameter of less than 0.5 microns. If larger particles are present, by subtraction, they would account for no more than 42% of the particles.

**Rejection Of Claims 21-46, 48-51, 53 and 54 Under 35 U.S.C. §103(a):**

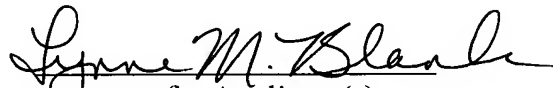
The Examiner has rejected Claims 21-46, 48-51, 53 and 54 under 35 U.S.C. 103(a) as being unpatentable over Maeda et al. (Japanese Kokai Patent Application No. Hei 7[1995]137432).

The Examiner notes that, with respect to the new claim limitation of the percentage of particles with a mean particle size below 0.5 microns, Maeda et al. uses different terminology to recite particle size, but it appears that its ranges would overlap with those instantly claimed, since claim 21 requires that at least 58% by weight of the particles have a mean diameter of less than 0.5 micrometers, if almost half of the 58% as well as the other 42% of the particles can have particle sizes over 0.5 microns, the claim reads on Maeda et al. Claim 21 has been amended to indicate that at least 58% of the crosslinked particles must have a diameter less than 0.5 micrometers. The Applicants believe this wording removes the perceived overlap. With respect to claim 29, the particles are "a component of an at least bimodal system" including other (larger) particles as long as the 58% requirement of claim 21 is met.

The Examiner indicates that, with respect to claims reciting more than one layer, since the claims use "open" claim language, layers recited as including particles with a mean diameter of greater than 0.5 microns are not precluded from including other particles as well, the compositions of these layers can be the same. The claims are intended to indicate that the element must contain the inventive, gloss-improving, crosslinked particle-containing layer with greater than 58% of the crosslinked porous polyester particles having a diameter of less than 0.5 micrometers, but may include other particle-containing layers as well.

It is believed that the foregoing is a complete response to the Office Action and that the claims are in condition for allowance. Applicants respectfully request reconsideration and early allowance to obviate the appeal.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Lynne M. Blank".

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If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.